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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,806	01/21/2005	William B. O'Neal	3165-114	3769
	7590 09/10/200 FIGG, ERNST & MAN	EXAMINER		
1425 K STREE SUITE 800		HOLT, ANDRIAE M		
WASHINGTO	N, DC 20005	ART UNIT	PAPER NUMBER	
		1616		
			NOTIFICATION DATE	DELIVERY MODE
			09/10/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/521,806	O'NEAL ET AL.		
Examiner	Art Unit		

The MAILING DATE of this communication appears on the cover sheet with the correspondence address THE REPLY FILED 8/21/80 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. 1. ■ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affident, or other evidence, which place the file of the prior of the continued Examination (RCE) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.134, The reply must be filed within one of the following time periods: a) ■ The period for reply express 2 months from the mailing date of the final rejection. b) ■ The period for reply express 0. (1) the mailing date of the final rejection. Examiner Note: If too 1 is checked, check either box (a) or (a). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REBECTION. See MPEP 705.07(1). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension for under 57 CFR 1.17(a) is calculated from (1) the expiration date of the shortened status/propord for reply organishy set in the final Cliftice action; for 20 may reduce any avantary part of the replication and the corresponding amount of the final replication under 57 CFR 1.17(a) is calculated from (1) the expiration date of the shortened status/propord for reply organishy set in the final Cliftice action; for 2) and the propordine extension for the shortened status period for reply organishy set in the final Cliftice action; for 2) and the propordine extension for the shortened status period for the mailing date of the final replication for the final propordine extension for the shortened period set for the mailing date of the final propordine extension for the final propordine extension for the final propordine extension for the final prop		Andriae M. Holt	1616	
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application, applicant must timely file one of the following replies: (1) an amendment, affidavil, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal ede) in compliance with 37 CFR 41.31 or; (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) \(\) The period for reply expires 2 months from the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: (Ibox 15 chocked, check either box (a) or (5). ONLY CHECK BXX (8) WHEN THE FIRST REPLEV MSF FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPET 905.07(f). Extensions of time may be obtained under 37 CFR 1.196(a). The date on which the petition under 37 CFR 1.198(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the flex. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the flex. The appropriate extension fee was been filed in the flex of the file of the flex of	THE REPLY FILED <u>8/21/08</u> FAILS TO PLACE THIS APPLICAT	TION IN CONDITION FOR ALLOW	ANCE.	
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have been flied is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortness distutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL 2. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: (See 37 CFR 1.116 and 41.33(a)). 1. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 3. Applicant's reply has overcome the following rejection(s): would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 4. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 5. Applicant's reply has overcome the following rejection(s):	b) The period for reply expires on: (1) the mailing date of this An no event, however, will the statutory period for reply expire la Examiner Note: If box 1 is checked, check either box (a) or (I MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f	dvisory Action, or (2) the date set forth ster than SIX MONTHS from the mailing b). ONLY CHECK BOX (b) WHEN THE).	g date of the final rejection FIRST REPLY WAS FI	on. LED WITHIN TWO
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13.	See Continuation Sheet.		condition for allowan	ce because:
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Continuation of 11. does NOT place the application in condition for allowance because: The data provided is limited to compound A +B+atrazine. The data provided is limited to only one amount proportion (40:20:1250). The claims provide no proportional limits. The examiner cannot determine if testing at one specific ratio will give an indication that all other ratios and proportions would similarly produce unexpected synergism. In addition, the examiner cannot determine if the result of the only tested triazine, atrazine, would be indicative of the result with a different triazine such as prosulfuron and hexazinone; both of which whose structures are too different from the structure of the tested atrazine. Again, one of ordinary skill in the art would not expect data with atrazine to be indicative of similar unexpected synergism with hexazinone and and prosulfuron because the structures are too different. The claims remain rejected for the reasons of record.